

REMARKS/ARGUMENTS

Claims 12-18 are now in the case. Claim 12 has been amended to place it in independent form, and now recites the size parameter of Claim 10 (now cancelled). Claim 12 has been further amended to remove the "preferably" language, as a matter of U.S. form. Claims 15 and 18 have been amended to have proper dependency from Claim 10. Claim 13 has been amended for formal reasons, in the manner suggested by the Examiner. The amendments add no new matter and entry is requested.

The Abstract has been amended to place it in U.S. format and to correct some transcribing errors. A clean copy is provided on a separate sheet.

Claim Objections

The objection to Claim 11 has been obviated by the cancellation of that claim. Claim 13 has been amended in the manner suggested by the Examiner. Withdrawal of the rejections is requested.

Rejections Under 35 USC 102

Claims 10, 11, 15 and 18 stand rejected as being anticipated by WO 98/28339, for reasons of record at pages 3 and 4 of the Office Action.

Applicants respectfully traverse the rejections on this basis, to the extent they may apply to the amended claims now in the case.

It is noted that original Claim 12 was not rejected under §102. Inasmuch as Claim 10 has been cancelled, and Claim 12 is now the independent claim from which all other claims ultimately depend, it is submitted that all claims, as amended, meet the requirements of §102.

Said another way, the hydroxyalkyl cellulose of WO '339 does not anticipate the hydrophobic cellulose herein. Therefore, reconsideration and withdrawal of the rejections under §102 are requested.

Rejections Under 35 USC 103

Before turning to the specific grounds of rejection, it is useful to consider the genesis of the present invention.

Applicants set-out to employ hydrophobic cellulose in laundry detergents to achieve fabric care benefits. However, as disclosed at page 1 of the specification, Applicants discovered a variety of problems nowhere suggested in the cited references that are associated with the detergent use of such hydrophobic cellulose polymers. Included among these are dispersability, reduced performance and the deposition of unwanted residues on fabrics.

As can be surmised, such problems might have been associated with the chemical nature of the hydrophobic cellulosic. Or, such problems could have been caused by any of the multiple components of the fully-formulated laundry detergent in which the cellulosic is employed. Alternatively, there could have been some unknown factor relative to wash times, temperatures, etc. Indeed, the problems could have been caused by a combination of all these factors.

Instead, Applicants further discovered that the problems can be solved by choosing the appropriate particle size range for the hydrophobic cellulosic. It is respectfully submitted that this problem/solution scenario is nowhere suggested in the cited references.

As the Examiner is aware from case law cited at MPEP 2141.02, "[A] patentable invention may lie in the discovery of the source of a problem even though the remedy may be obvious once the source of the problem is identified." This is part of the "subject matter as a whole" test under 35 USC 103.

Moreover, it is basic patent law that a prior art reference under §103 must teach or suggest all the claim limitations, with a reasonable expectation of success. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the applicant's disclosure. *In re Vaeck*, 947 F. 2d 488, U.S.P.Q. 2d 1438 (Fed. Cir. 1991)

To summarize, it is submitted that the documents cited under §103, i.e., U.S. 6,384,011, and WO 99/14295, discussed below, neither recognize the problem, nor suggest the solution, provided by Applicants herein. Under such circumstances, the MPEP and the relevant case law fully support the patentability of the present invention.

Claims 10-18 stand rejected over U.S. 6,384,011, for reasons of record at pages 4 and 5 of the Office Action.

Claims 10-18 also stand rejected over WO 99/14295, for reasons of record at pages 5 and 6 of the Office Action.

Applicants respectfully traverse all rejections under §103.

At the outset, it is noted that both WO 99/14295 and U.S. 6,384,011 relate to International Application No. PCT/US98/19142. Accordingly, it is submitted that both documents have a substantial commonality of disclosure and can be discussed together.

In regard to both the WO and the '011 documents, it is submitted that they must be considered in conjunction with the problem/solution analysis, above.

It is further submitted that, in neither instance do the documents suggest the problem addressed herein, much less its solution. While the Examiner seems to be taking the position that one skilled in the art could easily select the particle size range herein, there is no suggestion as to why such selection should be made.

Appl. No. 09/980,795
Atty. Docket No. cm2173
Amdt. dated 09/09/2003
Reply to Office Action of 6/11/03
Customer number 27752

Moreover, it is noted that the size range of a finished, fully-formulated detergent particle neither teaches nor suggests that the particle size of the hydrophobic cellulose discovered herein would solve the heretofore unreported problems associated with their use.

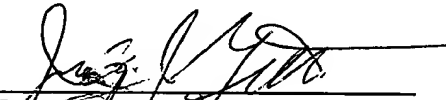
In short, absent hindsight, it is submitted that neither the WO document nor '011 fairly teaches or suggests the present invention under §103, read in view of the case law cited herein. Reconsideration and withdrawal of the rejections on this basis are requested.

Supplemental IDS/PTO Form SB-08

Pursuant to the Examiner's comment at page 2 of the Office Action, submitted herewith is a Supplemental IDS, with form PTO SB-08 and a copy of the U.S. Application 60/113,306. It is requested that this be made of record in the case.

In light of the amendments and remarks herein, it is submitted that the case is in condition for allowance. Early and favorable action is requested.

Respectfully submitted,
Pettifer et al.

By 
Jerry J. Yetter
Attorney for Applicant(s)
Registration No. 26,598
(513) 627-1907

September 9, 2003
Customer No. 27752